

**TITLE V
ZONING AND PLANNING**

Chapter 51

FLOOD HAZARD AREAS

51.100 Statutory Authorization. The Legislature of the State of Michigan has in Act 230 of the Public Acts of 1972, delegated the authority to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry.

51.101 Council Findings.

(1) Flood hazard areas of Harbor Springs are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affects the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in the flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise protected from flood damage.

51.102 Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be

protected against flood damage at the time of initial construction.

(3) Control the alteration of natural flood plains, stream channels and natural protective barriers, which are involved in the accommodations of flood waters.

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

51.103 Objectives. The objectives of this Chapter are:

(1) To protect human life and health.

(2) To minimize expenditures of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets and bridges located in flood plains.

(6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

(7) To insure that all potential property buyers are notified that property is in a flood area.

51.104 Definitions.

(1) **Meaning.** Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

(2) **Appeal.** A request for a review of the Building Official's interpretation of a provision of this Chapter or a request for a variance.

(3) **Area of special flood hazard.** The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

(4) **Base flood.** A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(5) **Development.** Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

(6) **Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(7) **Flood insurance rate map (firm).** An official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(8) **Flood insurance study.** The official report provided by the Federal Insurance Administration. The report contains flood profiles as well as the Flood Hazard Boundary

Floodway Map and the water surface elevation of the base flood.

(9) **Habitable floor.** Any floor for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

(10) **International Great Lakes Datum (IGLD).** Mean water level in 1955 at Father Point, Quebec, Canada.

(11) **Mobile home.** A one (1) family unit consisting of a pre-built (factory built) housing module, or a combination of such modules, designed so it may be drawn or carried to its site by a motor vehicle, and thus so constructed, equipped and installed on a lot (site), as to provide a dwelling unit for one (1) or more persons containing living, cooking, sleeping, heating, lighting, toilet and bathing facilities. Normally such home would not have a permanent foundation but would be readily detachable and removable from its site. This definition does not include a vehicle such as a tent trailer, travel trailer, self-contained trailer, motor home or camp trailer twenty-eight (28) feet or less.

(12) **New construction.** Any structure for which the start of construction commenced on or after the effective date of this Code.

(13) **Start of construction.** The first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

(14) **Structure.** Any walled and roofed building that is principally above ground.

(15) Substantial improvement. Any repairs, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either:

- (a) before the improvement or repair is started, or
- (b) if the structure has been damaged and is being restored, before the damage occurred.

The term does not, however, include either:

- (c) any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- (d) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(16) Variance. A grant of relief to a person from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter where specific enforcement would result in unnecessary hardship.

51.105 Lands to which this Chapter Applies. This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Harbor Springs.

51.106 Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for the City of Harbor Springs" with accompanying Flood Insurance Rate Maps and Flood Boundary Maps, dated December 25, 1981, and any revision thereto are hereby adopted by reference and declared to be a part of this Chapter.

51.107 Establishment of Development Permit. A development permit shall be required

in conformance with the provisions of this Chapter.

51.108 Compliance. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Chapter and other applicable regulations.

51.109 Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

51.110 Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body; and
- (3) deemed neither to limit nor repeal any other powers granted under State statutes.

51.111 Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Harbor Springs or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

51.112 Designation of Building Official. The Building Official is hereby appointed to administer and implement the provisions of this Chapter.

51.113 Duties and Responsibilities of the Building Official. Duties of the Building Official shall include, but not be limited to:

- (1) Review all development permits to assure that the permit requirements of this Chapter have been satisfied.
- (2) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies from which prior approval is required.
- (3) Verify and record the actual elevation (in relation to the IGLD) of the lowest floor (including basement) of all new or substantially improved structures.
- (4) Verify and record the actual elevation (in relation to the IGLD) to which the new or substantially improved structures have been floodproofed.
- (5) When floodproofing is utilized for a particular structure the Building Official shall obtain certification from a registered professional engineer or architect.
- (6) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards the Building Official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Chapter.
- (7) When base flood elevation data has not been provided in accordance with Section 51.106, then the Building Official shall obtain, review and reasonably utilize any base flood elevation data available from a federal, State or

other source, in order to administer the provisions of this Chapter.

(8) All records pertaining to the provisions of this Chapter shall be maintained in the office of the Building Official and shall be open for public inspection.

51.114 Permit Procedures. Application for a development permit shall be made to the Building Official on forms furnished by him and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill storage or materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to IGLD of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to IGLD to which any non-residential structure has been floodproofed.
- (3) Provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in Section 51.117.
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

51.115 Variance Procedures.

- (1) The Zoning Board of Appeals as established by the City of Harbor Springs shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- (2) The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by

the Building Official in the enforcement or administration of this Chapter.

(3) Any person aggrieved by the decision of the Zoning Board of Appeals, or any taxpayer, may appeal such decision to any court of competent jurisdiction.

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(5) In passing upon such application, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

(a) the danger that materials may be swept onto other lands to the injury of others;

(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location, where applicable;

(f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) the compatibility of the proposed use with existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise and sediment transport of

the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) - (k) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(8) Conditions for Variances.

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local law or Ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base

flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(d) The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

FLOOD HAZARD REDUCTION

51.116 General Standards. In all areas of special flood hazards the following provisions are required:

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- (6) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

51.117 Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section

51.106 or Section 51.113(7), the following provisions are required:

- (1) Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Non-residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight with walls and substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided as set forth in Section 51.114(3).
- (3) Mobile Homes - No mobile home, mobile home park, or mobile home subdivision shall be placed or located in any floodway or coastal high hazard area.

51.118 Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All division proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

Chapter 52**SUBDIVISION REGULATIONS****ARTICLE 1
TITLE AND PURPOSE**

52.100 Short Title. This Chapter shall be known and may be designated as the "City of Harbor Springs Subdivision Ordinance."

52.101 Purpose. Pursuant to the authority and purposes conferred by the Public Acts of the State of Michigan this Chapter is designed to provide standards, procedures, rules and regulations related to the making and filing of plats and to provide a method for preliminary and final approval or rejection thereof, the splitting of parcels and lots, and to provide for the penalties for violation of the provisions thereof.

**ARTICLE 2
DEFINITIONS**

52.200 Definitions. For the purposes of this Chapter, certain words, terms and phrases shall be defined as follows:

(1) All terms as defined in the Subdivision Control Act of 1967, the City's adopted Zoning Ordinances shall control in this Article 2. Words not defined shall be assigned their customary meaning.

(2) **Block:** Property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other similar physical barrier to the continuity of development.

(3) **Boulevard Street:** A street developed in two one-way pavements separated by a median.

(4) **Cul-de-sac Street:** A short minor street permanently terminated by a vehicular turnaround.

(5) **Easement:** A grant by the owner of the use of land by the public, a corporation or persons, for specific uses and purposes, to be designated as a "public" or "private" easement depending on the nature of the use.

(6) **Improvements:** Grading, street surfacing, curb and gutter, sidewalks, crosswalks, water mains and lines, storm sewers, sanitary sewers, culverts, bridges, utilities and other additions to the natural condition of the land.

(7) **Major Streets or Thorofare Plan:** That part of the Comprehensive, Master, or General Plan which sets forth the location, alignment and dimensions of existing and proposed streets and thorofares.

(8) **Performance Guarantee:** Any security including performance bonds, escrow agreements, and other similar collateral or surety agreements, which may be accepted by the City Council as a guarantee that required subdivision improvements will be made by the developer.

(9) **Final Plat:** A map of all or part of the subdivision substantially in conformance with the Preliminary Plat of the Subdivision prepared as required by the State Subdivision Control Act and this Chapter, suitable for recording by the County Register of Deeds and State Treasurer's Office.

(10) **Secretary:** The Secretary of the City of Harbor Springs Planning Commission.

(11) **Shall and May:** The word "shall" is mandatory and the word "may" is permissive.

(12) **Street:** Any avenue, boulevard, road, lane, parkway, viaduct or other way which is an existing State, County or City roadway or any

road or way shown on a plat heretofore pursuant to law. A street, as defined above, includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and landscaping.

(13) Subdivision Control Act or State Subdivision Control Act: As defined Public Act 288, of 1967, State of Michigan, as amended.

(14) Subdivider: Includes the plural as well as the singular and shall mean a person, firm, association, partnership, corporation or any legal combination of them or any other legal entity proceeding under these regulations to affect a subdivision of land. (See State Subdivision Control Act, Proprietor.)

(15) Turn-Around Street: Short boulevard street permanently terminated by a connecting vehicular turn-around.

(16) Words: Singular words shall include the plural, and masculine words shall include the feminine and neuter.

(17) Zoning Chapter: Chapter 51 of the Code of Ordinances of the City of Harbor Springs, as amended.

ARTICLE 3 INITIAL INVESTIGATION

52.300 Initial Investigation. Prior to the preparation of a preliminary plat, it is recommended that the subdivider meet informally with the City Planning Commission and the City Manager to investigate the procedures and standards of the City with reference to subdivision requirements.

(1) The subdivider should obtain information concerning the following:

(a) The requirements of the Zoning Chapter, Master Plan, Subdivision Regulations, engineering specifications, and other similar

ordinances and/or controls relative to the subdivision and improvement of land.

(b) The relationship of the proposed subdivision to adjacent land uses and to thoroughfares and plans for widening of thoroughfares.

(c) Adequacy and standards for schools and public open spaces including parks and playgrounds to serve the proposed subdivision.

(d) Availability, standards and adequacy of sewage disposal, water supply and drainage within the City serving the subdivider's site.

(e) Requirements for permits and compliance with other regulations governing land use, including the Soil Erosion and Sedimentation Control Act (Act 347 of 1972), the Shoreline Protection and Management Act (Act 245 of 1970), the City Building Code and others as applicable.

(2) The subdivider may wish to submit a design concept sketch (preferably at a scale of 1" = 100' or larger) of the subdivision showing the proposed development of the subdivision in schematic form. Such sketch plan may include: general layout of streets and lots; existing characteristics and conditions of the site; and general areas to be set aside for schools, parks and other community facilities, as provided in Section 52.404.

(3) Nothing in this Section, however, shall be construed as to require approval of the sketch.

ARTICLE 4 PRELIMINARY PLAT TENTATIVE APPROVAL

52.400 Procedure. The preparation of a Preliminary Plat shall be carried out through two (2) paths: Tentative and Final Preliminary Plat Approval, all in accordance with the procedure set forth in Article 4 and Article 5.

52.401 Filing.

(1) The subdivider shall submit ten (10) copies of the preliminary plat and other data concerning the proposed subdivision, together with a copy of proof of ownership to the City Clerk at least ten (10) days before a meeting of the Planning Commission. The Clerk shall forward such data to the Planning Commission Secretary and shall request that the preliminary plat be placed on the next agenda of the Planning Commission.

(2) The subdivider shall submit two (2) copies to the Emmet County Plat Board for their preliminary review and present evidence of having done so to the City.

(3) The Harbor Springs School District shall be informed of the proposed preliminary plat by the subdivider. The subdivider shall submit evidence that a copy of the preliminary plat has been delivered to the School District.

(4) The preliminary plat shall be prepared in accordance with Sections 111 and 112 of the State Subdivision Control Act and in accordance with the requirements of this Chapter. The Planning Commission shall act on the preliminary plat within forty-five (45) days after the first meeting of the Planning Commission after the proposed preliminary plat has been deposited with the City Clerk.

(5) The subdivider shall deposit the sum required in Article 12 to cover costs of reviewing all plans and layout, said deposit to be made at the time the preliminary plat is submitted to the clerk.

52.402 Identification and Description. The preliminary plat shall show the following information:

- (1) Proposed name of subdivision.
- (2) Location by Section, Town, and Range, or by other legal description.

(3) Names and addresses of the subdivider, owner and the planner, landscape architect, designer, engineer, or surveyor who designed the subdivision layout. The subdivider shall also indicate his interest in the land.

(4) Date, northpoint and scale of plat, 1" = 100' minimum acceptable scale.

52.403 Existing Conditions.

(1) An overall area location map at a scale of not less than 1" = 400'.

(2) Boundary line of proposed subdivision, section or City lines within or adjacent to the tract and overall property dimensions.

(3) Property lines of contiguous adjacent tracts of subdivided and unsubdivided land up to 200 feet from the proposed plat are to be shown in relation to the tract being proposed for subdivision including those located across abutting streets or roads.

(4) Location, widths, and names of existing or prior platted streets and private streets, public areas and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads.

(5) Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision.

(6) Drainage patterns shall be graphically displayed on an accompanying sketch and include the following information:

- (a) River, stream or open (ditch) drainways and the direction of their flow.
- (b) The direction of surface drainage over the site.
- (c) Ridgelines or watershed boundaries, if any, on or within 1/2 mile of the site.
- (d) Soil drainage characteristics:

- (i) Well drained;
- (ii) Subject to ponding;
- (iii) Susceptible to flooding.

(7) Topography drawn to contours with an interval of at least two (2) feet in elevation. Contours at five (5) foot elevation may be used for the Bluff when properly noted on the drawing. Topography shall be based on United States Geographical Survey Datum. If slope gradients of two (2%) percent or greater exist on the site, then a sketch shall be presented with shadings for the first two (2%) to four (4%) percent change; the four (4%) to ten (10%) percent change; the ten (10%) to twenty (20%) percent change; and the twenty (20%) percent and greater change. The topographic map and slope gradient sketch shall include the area of the proposed subdivision as well as an area at least 200 feet beyond it.

(8) Vegetation on the site shall be carefully inventoried and sketched as to type and location on a map at the same scale as the preliminary plat. In particular, existing trees by type and size shall be recorded as well as the ground elevation at the base of each tree of significant size, or clusters of trees at the same general base or average base elevation.

52.404 Proposed Conditions.

(1) A design concept sketch at 1" = 100' shall be submitted with the plat that shows the features proposed for development (i.e., lots streets, drains, open space, parks, schools, etc.) related to the site's natural characteristics (drainage, topography, slope, soil characteristics, vegetation, trees, etc.).

The reason this scheme was chosen over others shall be noted and explained.

(2) A refined illustration showing the information indicated below shall be submitted as the preliminary plat drawing.

(a) Layout of streets indicating proposed street names, right-of-way widths and connections with adjoining platted streets and also the width and location of alleys, existing easements and public walkways.

(b) Layout, number and dimensions of lots, including building setback lines showing dimensions.

(c) Indication of parcels of land intended to be dedicated or set aside for public use and/or for the use of property owners in the subdivision.

(d) An indication of the status of the petitioner's ownership, and existing and proposed use of any parcels identified as "excepted" on the preliminary plat. If the proprietor has an interest or owns any parcel so identified as "excepted", the preliminary plat shall indicate how this property could be developed in accordance with the requirements of the existing Zoning District in which it is located with an acceptable relationship to the layout of the proposed preliminary plat.

(e) Statement of intended use of the proposed plat such as residential single-family, two-family and multiple housing; commercial; industrial; recreational; or agricultural. Also proposed sites, if any, for multi family dwellings, shopping centers, churches, industry, and other nonpublic uses exclusive of single family dwellings. Also, any sites proposed for parks, playgrounds, schools or other public uses.

(f) If the subdivision is proposed to be developed under the cluster or planned unit development, said subdivision shall meet the requirements of the Harbor Springs Zoning Code.

52.405 Review by Planning Commission.

(1) One copy each of the preliminary plat shall be transmitted to the City Engineer and the City Planner for their technical review and recommendation.

(2) The City Planner shall check the proposed plat for completeness. Should any of

the data required in the State Subdivision Control Act, or Section 52.402 be omitted, the City Planner shall inform the Planning Commission of the data required, and the application shall not be considered properly filed until the required data is received.

(3) The City Engineer and Planner within thirty (30) days of receipt of the preliminary plat shall notify the Planning Commission of their recommendations for either approval or rejection of the preliminary plat.

(4) In anticipation of the receipt of the recommendations of the Engineer and Planner, the Secretary shall place the preliminary plat on the appropriate regular Planning Commission agenda, at which meeting the proprietor will be scheduled to appear. The Planning Commission shall act on the preliminary plat as provided in Section 52.401(4), unless the proprietor agrees to an extension at this time.

(5) Commission shall review the preliminary plat for compliance with the following:

- (a) Applicable ordinances and regulations;
- (b) Availability of utilities;
- (c) Availability of school and recreation facilities;
- (d) Master Plan Proposals.

(6) The Commission shall recommend conditional approval, disapproval or approval of the preliminary plat.

(a) Should the approval be a conditional approval, the preliminary plat shall not be forwarded to the City Council, until said conditions have been satisfied by the subdivider. The plat shall also not be considered properly filed until required conditions are met.

(b) Should the Commission disapprove the preliminary plat, it shall record the reasons in the minutes of the meeting. The proprietor shall be notified of the action of the

Commission in writing. He may request copies of the recommendations for the purpose of revision and resubmittal. A copy of this action shall be submitted to the City Council.

(c) Should the Commission find that all conditions have been satisfactorily met, it shall recommend tentative approval of the preliminary plat. The Secretary shall make a notation to that effect on each copy of the preliminary plat and distribute copies of same as follows:

- (i) Retain one (1) copy with comments which shall become a matter of permanent record in the Commission's files;
- (ii) Forward one (1) copy to the School Board or School Superintendent;
- (iii) Forward the remaining copies to the City Council via the Clerk's office with recommendation for approval.

52.406 Review by the City Council.

(1) The City Council will not review the preliminary plat before compliance with Section 52.405, and then shall consider the preliminary plat and shall take action thereon within ninety (90) days of the date of filing.

(2) Should the City Council give tentative approval of the preliminary plat, it shall be deemed to confer upon the proprietor the right to proceed with the preparation of the preliminary plat for final approval.

(3) The approval of the preliminary plat by the City Council is effective for a period of one (1) year. Should the preliminary plat in whole or part not be submitted for final approval within this time limit, the preliminary plat must again be submitted to the Planning Commission for a recommendation of tentative approval to the City Council. The one (1) year period may be extended if applied for by the subdivider and granted by the City Council in writing.

(4) No installation or construction of any improvements shall be made or begun at this time.

**ARTICLE 5
PRELIMINARY PLAT - FINAL
APPROVAL**

52.500 Time for Submission. Within one (1) year after having received tentative approval of the preliminary plat as prescribed in Article 4 of this Chapter, the subdivider shall submit the preliminary plat for final approval.

52.501 Filing.

(1) The subdivider shall submit to the City Clerk ten (10) copies of the preliminary plat and other data concerning the proposed subdivision at the time he files copies with the authorities as required in Section 113 to 119 of the Subdivision Control Act. At this filing he shall include a certified list of all authorities to which he has submitted preliminary plats for review.

(2) The subdivider shall deposit the sum required in Article 12 to cover costs of reviewing all engineering plans and layout, said deposit to be made at the time the preliminary plat is submitted for final approval to the Clerk.

(3) Should any of the data required in the Subdivision Control Act or in this Chapter be omitted from the proposed plat, the Clerk shall inform the subdivider of the data required and suggest that the application not be filed until the required data is received. However, a failure by the Clerk to inform the subdivider of any inadequacies does not obviate the need for a complete submission of all data required.

(4) The subdivider shall submit evidence of title or agency. A policy of title insurance, or a legal opinion with reference to ownership, may be required for examination in order to ascertain as to whether or not the proper names appear on the plat.

(5) The Clerk shall forward the preliminary plat and all other data to the Planning Commission Secretary and shall request that the preliminary plat be placed on the next agenda of the Planning Commission.

(6) The preliminary plat shall be prepared in accordance with Section 120 of the Subdivision Control Act and in accordance with the requirements of this Chapter. The Planning Commission shall act on the preliminary plat within thirty (30) days after the proposed preliminary plat has been deposited with the City Clerk.

52.502 Identification and Description.

(1) Same as Section 52.402.

52.503 Existing Conditions.

(1) Same as Section 52.403.

52.504 Proposed Conditions.

(1) Same as Section 52.404.

(2) An indication of the required underground utilities.

(3) An indication of system proposed for sewage by a method approved by the City Council and the City Engineer.

(4) An indication of system proposed for water supply by a method approved by the City Council and the City Engineer.

(5) An indication of storm drainage, and point of outlet at the subdivision line, proposed by a method approved by the City Council and City Engineer.

(6) In the case where the subdivider wishes to subdivide a given area, the preliminary plat shall include the proposed general layout for the

entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the subdivider intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the subdivider is subdivided.

(7) **Subsoil Drainage:** Whenever there is reason to expect that any part of the tract has high water table or unstable subsoil conditions, the preliminary plat submittal shall include a tabulated record and a keyed map of soil borings made by and certified by a registered civil engineer, or registered land surveyor.

(8) **Water Areas:** Plan of any proposed water areas indicating depths, normal water levels, slopes and type of bank retention; method of controlling insects, water growths and vegetation.

(9) **Proposed Topography:** Super-imposed on the preliminary plat shall be the proposed contours at a minimum of two feet of the area including the area at least 100 feet outside of the project.

52.505 Review by the Planning Commission.

(1) One copy each of the preliminary plat shall be transmitted to the City Engineer and the City Planner for their technical review and recommendation.

(2) The City Planner shall check the proposed plat for completeness and conformity to the tentatively approved plat. Should any of the data required in the State Subdivision Control Act, or this Chapter be omitted, the City Planner shall inform the Planning Commission of the data required, and that the application will be delayed until the required data is received.

(3) The City Engineer shall check all drawings and information for technical competence and compliance with the

Subdivision Control Act and the requirements of this Chapter.

(4) The City Engineer and Planner shall notify the Planning Commission of their recommendations for either approval or rejection of the preliminary plat in time sufficient for the Planning Commission to place the plat on its agenda before the end of the 30-day review period.

(5) The preliminary plat documents shall be reviewed by the Planning Commission as to compliance with the previous tentatively approved plat.

(a) Should the Planning Commission find that the submitted plat documents are in close agreement with the tentatively approved preliminary plat, it shall recommend approval and notify the City Council of this action in its official minutes and forward same together with all accompanying data to the City Council for their action.

(b) Should the Planning Commission find that the submitted plat documents do not conform substantially to the tentatively approved preliminary plat and that it is not acceptable, they shall record the reasons in their official minutes and forward same to the City Council together with all accompanying data to the City Council for their review and action.

52.506 Review by the City Council.

(1) The City Council shall not review the preliminary plat until all of the requirements of the Subdivision Control Act and this Chapter have been complied with. The subdivider shall submit approved copies of preliminary plats from each of the required authorities. These may include one or more of the following as applicable:

- (a) County Road Commission;
- (b) County Drain Commission;
- (c) Department of State Highways;

- (d) Department of Natural Resources;
- (e) Water Resources Commission;
- (f) Health Department;
- (g) County Plat Board;
- (h) Public Utilities.

(2) The City Council shall consider the preliminary plat and shall take action at their next regular meeting or within twenty (20) days of the date of filing, which date of filing shall be considered the date on which all the required authorities have submitted their approval.

(3) Should the City Council give approval to the preliminary plat, it shall be deemed to confer upon the subdivider the right to proceed with the preparation of the final plat.

(4) The approval of the preliminary plat by the City Council is effective for a period of two (2) years. Should the final plat in whole or in part not be submitted for approval within this time limit, the approval shall be cancelled and the preliminary plat must again be submitted to the Planning Commission for a recommendation of tentative approval to the City Council. The two (2) year period may be extended if applied for by the subdivider and granted by the City Council in writing.

(5) The City Council shall instruct the City Clerk to promptly notify the subdivider of approval or rejection in writing and if rejected to give the reasons.

(6) No installation or construction of any improvements shall be made before the preliminary plat has received final approval of the City Council, engineering plans have been approved by the City Engineer, and any deposits required under Article 8 of this Chapter have been received by the City.

ARTICLE 6 FINAL PLAT

52.600 Preparation

(1) The final plat shall comply with the provisions of the State Subdivision Control Act.

(2) The final plat shall conform substantially to the preliminary plat as approved and it may constitute only that portion of the approved preliminary plat which the subdivider proposed to record and develop at the time; provided, however, that such portion conforms to this Chapter.

52.601 Final Plat Review.

(1) Five (5) mylar or similar approved materials and three (3) paper prints of the final plat shall be filed by the subdivider with the Clerk and shall deposit such sums of money as required herein and/or by other provisions of this Code.

(2) The final plat shall be reviewed by the City Engineer and City Planner as to compliance with the approved preliminary plat and plans for utilities and other improvements.

(3) The City Engineer and City Planner shall notify the City Council of their recommendation for either approval or rejection of the final plat within ten (10) days of the date of filing.

(4) The City Council shall review the recommendations of the Engineer and Planner and take appropriate action to approve or disapprove the final plat at its next regular meeting or within twenty (20) days after its date of submission.

(5) Upon approval of the final plat by the City Council, the subsequent approvals shall follow the procedure set forth in the Subdivision Act. The three (3) prints of the final plat shall

be forwarded: one (1) to the Clerk, one (1) to the Planning Commission and one (1) to the Building Inspector. The five (5) mylar copies shall be forwarded to the County Plat Board.

(6) Placing of required monuments and lot corner markers may be waived by the City Council for a period of one (1) year from the date of approval of the final plat by the City Council, provided:

(a) That exterior monuments or other markers adequately witnessed, shall be in place; and

(b) That the subdivider shall have delivered to the Clerk cash or a certified check or irrevocable bank letter of credit running to the City, whichever the proprietor selects in an amount equal to \$25.00 per monument remaining to be placed, plus \$10.00 per lot corner marker remaining to be placed; however, that a minimum deposit in an amount equal to such sum as may be set by resolution of the City Council from time to time shall be necessary regardless of the number of monuments and/or markers to be placed.

Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the subdivider defaults, the City Clerk shall engage a surveyor to locate the monuments and markers called for on the plat and on completion of the work shall return any unexpended balance of the deposit to the party from whom it was received.

(7) The City Clerk shall require of the subdivider as a condition of final plat approval, a deposit in the form of cash, certified check, or irrevocable bank letter of credit running to the City for the full cost, as estimated by the City Engineer, of the improvement of public places, including roads and streets, and the installation of any required public sanitary sewer, water supply, and drainage facilities, to insure the completion of said improvements and facilities

within a length of time agreed upon from the date of approval of the final plat by the City Council. The City shall rebate to the subdivider as work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project; provided, however, that no amount shall be reimbursed until the City Engineer approves the same and at least ten (10%) percent shall be retained pro rata from the entire project for each payment until one (1) year after completion of the improvements to insure against any repairs that may be necessary.

(8) Two (2) copies of the proposed Subdivision Deed Restrictions of protective covenants or a statement in writing that none are proposed shall be furnished to the City Council to be filed with the City's copy of the final plat.

(9) One complete set of "as built" mylar drawings shall be provided by the proprietor to the City Engineer at the time of final acceptance of the public improvements.

52.602 Assessor's Plats. If it is established that conditions exist whereby an assessor's plat is necessary, said assessor's plat shall comply with Sections 201 to 213 of the State Subdivision Act.

ARTICLE 7 DESIGN STANDARDS

52.700 Design Standards. The subdivision design standards set forth herein are development guides for the assistance of the developer. All final plans must be reviewed and meet the approval of the City Engineer.

52.701 Streets. Streets shall conform to all minimum requirements, general specifications, typical cross-sections and other conditions set forth in the improvement section of this Chapter and in the plan for major streets and any other requirements of the City.

(1) Location and Arrangement.

(a) The proposed subdivision shall conform to the various elements of the Master Plan and shall be considered in relation to existing and planned major thoroughfares and collector streets, and such subdivision shall be platted in the location and the width indicated on such Master Plan.

(b) The street layout shall provide for continuation of collector streets in the adjoining subdivisions or of the proper projections of streets when adjoining property is not subdivided (generally not more than 1,300 feet apart); or conform to a plan for a cluster or Planned Unit Development accepted and/or adopted by the Planning Commission.

(c) The street layout shall include local streets so laid out that their use by through traffic will be discouraged.

(2) **Street Layouts.** The following design standards shall be used:

(a) Major street width shall conform to the Major Street Plan and shall have a minimum right-of-way width of sixty-six (66) feet or in conformance with the Major Street Plan of the municipality or the Master Plan for streets.

(b) Local Streets shall have a minimum right-of-way width of sixty (60) feet.

(c) Cul-de-sac streets shall have a minimum right-of-way width of sixty (60) feet. They shall terminate in a vehicular turn-around with a minimum diameter of one hundred and twenty (120) feet and with a six (6) feet utility easement all around. Maximum length for cul-de-sac streets shall be six hundred (600) feet measured to the center of the turn-around.

(d) "T" ends shall be permitted with the approval of the City Council.

(3) **Grade Standards.**

(a) Maximum grades for major thoroughfares, secondary and minor streets, shall not be greater than seven percent (7%). Where this maximum creates extreme hardship to the developer, the City Council may waive this

requirement upon determining that such waiver will be in the best interests of the City.

(b) Roadway grades shall be designed to provide positive surface drainage.

(c) Grades at intersection shall not exceed three percent (3%) except in cases of extreme hardship.

(4) **Horizontal Alignment.**

(a) Major thoroughfares shall have radii of center line curvature of not less than four hundred and fifty (450) feet.

(b) Collector streets shall have radii of center line curvature of not less than three hundred (300) feet.

(c) Between reverse curves on major thoroughfares and on collector streets, there shall be a minimum tangent distance of one hundred (100) feet.

(d) Streets shall be laid out so as to intersect as nearly as possible to ninety (90) degrees.

(e) Curved streets intersecting major thoroughfares and collector streets shall do so with a tangent section of center line fifty (50) feet in length measured from the right-of-way line of the major thoroughfare or collector street.

52.702 Blocks. Blocks within subdivisions shall conform to the following standards:

(1) **Sizes:**

(a) Maximum length for blocks shall not exceed 1,300 feet in length, except where in the opinion of the Planning Commission, with the advice of the City Planner and the City Engineer, conditions may justify a greater distance.

(b) Widths of blocks shall be determined by the conditions of the layout and shall be suited to the intended design of the subdivision.

(2) **Public Walkways:**

(a) Location of public walkways or crosswalks may be required by the Planning

Commission to obtain satisfactory pedestrian circulation within the subdivision and on the periphery to public or private facilities.

(b) Right-of-way widths of public walkways when not adjacent to or a part of street rights-of-way shall be at least fifteen (15) feet and shall be dedicated to the use of the public.

(3) Easements:

(a) Location of utility line easements shall be provided along the rear or side lot lines as necessary for utility lines. Every lot, park or public grounds shall have access to an easement. Such easements shall be a total of not less than twelve (12) feet wide. Where practical, the easement may be located six (6) feet on each side of the center line and on adjoining lots.

(b) Recommendations on the proposed layout for telephone, and gas utility easements shall be obtained from the utility companies serving the City. It shall be the responsibility of the proprietor to submit copies of the preliminary plans to all appropriate public utility agencies.

(c) Easements three (3) feet in width shall be provided where needed along side lot lines so as to provide for street light dropouts. Prior to the approval of the final plat for a proposed subdivision, a statement shall be obtained from the appropriate public utility indicating that easements have been provided along specific lots.

A notation shall be made on the final plat indicating: "The side lot lines between lots (indicating lot numbers) are subject to street light dropout rights granted to the Harbor Springs Electric Company."

(d) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction or both as will be adequate for the purpose. Such easements shall meet the approval of the County Drain Commissioner and the City.

52.703 Lots. Lots within subdivisions shall conform to the following standards:

(1) Sizes and Shapes:

(a) The lot size, width, depth and shape in any subdivision proposed for residential uses shall be appropriate for the location and the type of development contemplated.

(b) Lot areas and widths shall conform to at least the minimum requirements of the Zoning Chapter for the district in which the subdivision is proposed.

(c) Building setback lines shall conform to at least the minimum requirements of the Zoning Chapter.

(d) Excessive lot depth in relation to width shall be avoided. A depth-to-width ratio of not more than 3 to 1 is desirable.

(e) Corner lots in subdivisions shall be platted at least twenty (20) feet wider than the minimum width permitted by the Zoning Chapter.

(f) Lots intended for purposes other than residential use shall be specifically designed for such purposes, and shall have adequate provision for off-street parking, setbacks, and other requirements in accordance with the Zoning Chapter.

(2) Arrangement:

(a) Every lot shall front or abut on a public street except in those instances involving a planned development for multiple dwellings, business centers, industrial tracts, or where such requirements would not serve the best interest of the City.

(b) All lots shall front on subdivision streets and not on the major street, except as authorized by City Council.

(c) Lots shall have a front-to-front relationship across all streets where possible, except as noted above.

(d) Lands subject to flooding or otherwise deemed by the Planning Commission to be uninhabitable shall not be platted for residential purposes, or for uses that may in the

judgment of the Planning Commission increase the danger to health, life, or property or increase the flood hazard. Such land within a subdivision shall be set aside for other uses, such as parks or other open space. All City, State and Federal laws and regulations governing flood hazard areas shall apply.

(e) Where parcels of land are subdivided into unusually large lots the parcels may be divided, where feasible, so as to allow for resubdividing into smaller parcels in a logical fashion. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks.

52.704 Trees and Natural Features. The natural features of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, and similar community assets that will add attractiveness and value to the property if preserved.

(1) Existing trees near street rights-of-way shall be preserved by the subdivider whenever possible.

(2) Street trees shall be provided; at least one per lot or not less than one tree for each 50 feet - place between sidewalk and curb.

(3) The following species of trees shall be permitted:

Under Power Lines:

Hedge Maple

Amur Maple

Bradford Callery Pear

Purple Leaf Plum

Crimson Sentry

With No Power Lines:

Sugar Maple

Norway Maple

Crimson Maple

Red Maple

Little Leaf Linden

Green Spire Linden

Ash Family

Pin Oak

Downtown:

Bradford Callery Pear

Sugar Maple

(4) The following species of trees shall not be permitted:

Birch

Evergreens

Cedars

Mountain Ash

Silver Maple

(5) Other species as may be approved with the consent of the City Manager or Planning Commission.

52.705 Greenbelts. Greenbelts may be required to be placed next to incompatible features such as highways, commercial or industrial uses to screen the view from residential properties. Such screens or greenbelts shall be a minimum of twelve (12) feet wide and shall not be a part of the normal

roadway right-of-way or utility easement. (Reference shall be made to Greenbelts in the City of Harbor Springs Zoning Chapter.)

52.706 Flood Areas. Any areas of land within the proposed subdivision which lie either wholly or in part within the flood area, stream, creek or drain, or any other areas which are subject to flooding or inundation by storm water shall require specific compliance with the Subdivision Control Act and its review. All City, State, and Federal flood hazard area control regulations will apply.

52.707 Topsoil. Removal of topsoil from areas to be subdivided shall be prohibited except in those areas to be occupied by buildings, roads, or parking areas. In areas of mass grading, topsoil shall be placed on all graded areas after placement of street and utility improvements, and in no event later than two (2) years after completion of such grading. A plan for storage or stockpiling of topsoil shall be submitted by the proprietor with the final plat and shall be approved prior to receiving approval of the final plat. Such plan shall meet the requirements of the Zoning Chapter, if applicable, and State Soil Erosion and Sedimentation Control statutes.

ARTICLE 8 REQUIRED IMPROVEMENTS AND FINANCING

52.800 Required Procedure.

(1) Whenever a builder or developer is required to install public improvements within existing City rights-of-way, he shall be required to meet standards as prescribed by the City.

(2) Whenever a builder or developer desires to install public improvements within the boundaries of a proposed area to be platted he shall:

(a) First obtain the approval of the City of all plans and specifications for such installation.

(b) Obtain the concurrence and approval of the City as to the qualifications of the contractor to whom the contract is to be awarded.

(c) Prior to the undertaking of any improvements, a Subdivision Agreement shall be executed between the City and the Subdivider setting forth the list and description of all improvements to be made, the method of assurance that these improvements will be made as described, a construction schedule for all improvements, the construction inspection requirements and applicable fees and methods of payment, maintenance bond requirements and other repair or replacement guarantees, and such other items as may be appropriate. This agreement is not to be construed as overriding the requirements of this Chapter, but as supplementary to these requirements.

(d) Prior to the undertaking of any improvements, the subdivider shall deposit with the Clerk, cash, a certified check or irrevocable bank letter of credit, whichever the subdivider selects, or a surety bond acceptable to the City Council to insure faithful completion of all improvements within the time specified. The amount of the deposit shall be set by the City Council based on an estimate by the Engineer. The City Council shall release funds for the payment of work as it is completed and approved by the City.

(e) Prior to the acceptance by the City of improvements, a two-year maintenance bond in an amount set by the City Council shall be posted by the subdivider.

52.801 Improvements.

(1) Improvements shall be provided in accordance with the standards, requirements and detailed specifications of the City and the State Health Department, County Department of Health, County Drain Commission, and any other legally responsible jurisdiction where appropriate, and according to plans approved by the City and such other responsible public authority as may be appropriate.

(2) The following improvements shall be required:

- (a) Street Pavings as per the Master Plan for streets and all other City specifications.
- (b) Curb and Gutter as required by the City Council after considering the density of development, the aster Plan for streets, the storm drainage needs and systems selected, the character of surrounding development, and the current state and future plans for adjacent public facilities.
- (c) Sidewalks along all road rights-of-way within and adjacent to the subdivision being developed, in accord with City specification. This requirement may be modified or waved by the City Council when it is determined that no good purpose would be served after considering the density and character of the subdivision and the nature of surrounding development.
- (d) Storm Drainage System such that all storm runoff engendered or altered by the development will not adversely affect the community.
- (e) Sewage Disposal System.
- (f) Water Supply Systems.
- (g) Trees.
- (h) Underground Telephone, Electric and CATV service.
- (i) Natural Gas where available.
- (j) Street Signs, both street name and traffic regulation signs as appropriate.
- (k) Street Lights.

52.802 Surface Drainage - Building Permit.

No building permit shall be issued in any subdivision in City of Harbor Springs unless the application for such permit is accompanied by evidence in the form of plat diagrams showing topography of such building site and the proposed surface drainage thereof approved by the City. It shall be unlawful for any person to impede, block, change or later the flow of surface drainage in any manner, or maintain any such impediment or blockage in any manner in

any subdivision, without the prior written express approval of the City.

52.803 Surface Drainage - Occupancy Permit.

No final occupancy permit shall be issued for a new building until satisfactory evidence is furnished that the yard grading is complete for the lot or parcel of land on which the building is located. "Satisfactory evidence" shall be in the form of a certificate prepared by and certified by a registered land surveyor or registered professional engineer, showing existing versus proposed finished grades. When weather conditions will not permit the required grading to be done, a temporary certificate of occupancy may be issued by the Building Inspector upon the filing with the City Clerk of a cash bond, in an amount to be determined by the City, to guarantee that said grading will be completed as soon as weather permits. Upon the filing of satisfactory evidence that the grading has been completed as herein provided, said bond shall be refunded, without interest.

**ARTICLE 9
OTHER REQUIREMENTS**

52.900 Sales Models. No building permit shall hereafter be issued for any residential construction other than for the erection of a sales model unless and until the City of Harbor Springs has approved and accepted all public improvements installed in the streets adjacent to the property for which the permit is sought.

52.901 Fees. Engineering fees, inspection fees, water and sewer connection charges, electrical underground charges, and other applicable development charges shall be as provided for by the City from time to time.

52.902 Lot Splits of Platted and Unplatted Existing Lots.

The division of a parcel of land, the boundaries of which are fixed in a recorded plat or which exists currently within the City although not within a recorded plat, into more than one (1) but less than five (5) lots or tracts of

a buildable size, in accordance with the requirements of the Zoning Chapter of the City of Harbor Springs, shall follow the procedures and provisions as set forth hereinafter:

(1) Application: The owner or his agent shall submit:

(a) Three (3) copies of a drawing to scale showing:

(i) Any available parcel identification (street number, etc.).

(ii) Current lot boundaries.

(iii) All buildings existing on lot(s).

(iv) Prospective lot boundaries.

(v) Distances should be noted including:

1) Width and depth of current lot(s).

2) Width and depth of prospective lots(s).

3) Distances from existing buildings to lot boundaries, or street right-of-way, showing front, rear and side lot widths before and after split.

(vi) Existing streets upon which frontage exists and any other landmarks to aid in identification of the parcel.

(vii) Legal description of parcel(s) before, and after split.

(b) Three (3) copies of a letter to the City setting forth:

(i) Person seeking to split lots.

(ii) Agent acting on his behalf (if any).

(iii) Location of lot.

(iv) Zoning District.

(v) Description of the requested split, i.e.:

"Mr. X is seeking permission to divide his lot (enter legal description) such that (two) lots will remain, described as (legal description)."

(vi) The size of the lot(s) before and after the split.

(vii) The reason for the split and development plans if any.

(viii) A brief statement noting the size of other lots in the area, and the effect of lot split or development plans on the neighborhood and public facilities, i.e.:

"Most other lots in the area are X' x Y', single family homes, so this action will keep within the existing pattern. Public water and sewer are available. No great traffic will be generated."

(2) Approval Criteria: All lot split requests will be considered according to the following criteria:

(a) Lots resulting from any split must be at least the minimum size allowed within the zoning district.

(b) Lots resulting should be a size appropriate to the surrounding area. Such factors as density, effect upon public utilities, streets, parking, etc., will be considered.

(c) No non-conformities shall be created except in cases of undue hardship as determined by the City Council upon appeal.

(d) All existing special assessments, must be paid in full before a lot split can be affected.

(3) Action Required:

(a) The City Manager, City Building Inspector, and City Assessor shall approve, conditionally approve or disapprove the proposed lot split. If the proposed lot split is approved at this stage, the City Assessor shall take necessary action to have the current tax roll for the City charged, and the City Manager shall notify the applicant of the City's approval.

(b) Should the City Manager, the City Building Inspector, or the City Assessor disapprove of the proposed lot split, the applicant may appeal to the City Council. Upon notification of the City Manager or the City Clerk that he would seek such an appeal, copies of the data required in subsection (1) above shall be sent to the Council, and the item placed upon the next Council agenda. The Council shall be the final interpreter of the intent of this Chapter,

and may grant a variance for hardship as per Section 52.1300. Should the Council approve of the proposed split, the City Manager and City Assessor shall proceed forthwith as prescribed in subsection (3)(a) above.

ARTICLE 10 COMPLIANCE STANDARDS

52.1000 Approvals. The approvals required under the provisions of this Chapter shall be obtained prior to the installation of any subdivision or project improvements within the City, in public streets, public alleys, public rights-of-way and public easements, and/or under the ultimate jurisdiction of the City. All subdivision or project improvements within the City installed in public streets, public alleys, rights-of-way, or public easements, and/or under the ultimate jurisdiction of the City shall comply with all of the provisions and requirements of this or any other related Chapter.

ARTICLE 11 INTERPRETATION

52.1100 Conflicts. The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the City. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations of laws of the City, except as allowed in section 52.1300, nor conflict with any statutes of the State of Michigan, except that these regulations shall prevail in cases where these regulations impose a greater restriction than is provided by existing statutes, laws, or regulations.

ARTICLE 12 FEES

52.1200 Review and Administration Fees. Fees for preliminary and final plat review and condominium site plans shall be periodically set by City Council resolution.

52.1201 Other Fees - Insurance and Bonds.

Prior to the construction of subdivision and project improvements, the contractor shall procure and maintain during the life of any contract or agreement for such construction, insurance protecting the City from any claim for damages, real, personal, or otherwise, in the amount of \$500,000.00. Prior to the acceptance of improvements by the City, a two-year maintenance bond in the full amount of the contract shall be posted by the subdivider.

ARTICLE 13 VARIANCES

52.1300 Variance for Hardship. The City Council acting as a Board of Appeals may authorize a variance from these regulations when undue hardship may result from strict compliance. In granting any variance, the City Council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings as required herein below, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land.
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) That the granting of the variance will not be detrimental to the public welfare or

injurious to the other property in the territory in which said property is situated.

(4) That the variance will further the planning objectives and development policies of the City.

ARTICLE 14 CONDOMINIUM LAND SUBDIVISION

52.1400 Intent. The intent of these requirements is to ensure that all condominium land subdivisions are developed in compliance with accepted planning and engineering standards applicable to similar forms of development as reflected in the ordinances and requirements of the City. Single-family detached condominiums may be allowed as a permitted use in any single-family zoning district, subject to the provisions of this Section and site plan review by the Planning Commission. Commercial and Industrial Condominiums that result in condominium unit(s) that exceed the building envelope(s)' exterior foot print shall also be regulated by this Section.

52.1401 Definitions.

- (1) Condominium Act means Act 59 of 1978, as amended.
- (2) Condominium Land Subdivision Plan means the site plan illustrating the existing site features and all proposed improvements pursuant to the requirements for site plan review.
- (3) Condominium Unit means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.
- (4) Master Deed means the condominium document recording the condominium project as approved by the City, to which is attached as exhibits and incorporated by reference the

approved bylaws for the project and the approved condominium land subdivision plan for the site.

52.1402 Submission Requirements. All condominium land subdivisions plans shall be submitted for review as required by Section 50.2000 of the Harbor Springs Zoning Code of 1990 (Site Plan Review) and Section 66 of the Condominium Act, and include the following additional information:

- (1) A single legal description for the land to be submitted to the condominium.
- (2) A survey of the condominium land subdivision site, including all existing lots and rights-of-way.
- (3) A plan delineating all natural and man-made features on the site including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
- (4) The location, size, shape, area and width of all condominium units and common areas, and the location of all proposed streets.
- (5) A copy of the Master Deed and a copy of all restrictive covenants to be applied to the project.
- (6) The nature and location of all common elements.
- (7) A utility plan showing all sanitary sewer, water, and storm drainage improvements, plus all easements granted to the appropriate governmental agency for installation, repair and maintenance of all utilities.
- (8) A street construction, paving, and maintenance plan for all streets within the proposed condominium land subdivision plan, as well as improvements for streets abutting the proposed condominium land subdivision area.

(9) A storm drainage and stormwater management plan, including all line, swales, drains, basins, and other facilities.

52.1403 Review Procedure. Pursuant to authority conferred by Section 141 of the Condominium Act, all condominium land subdivision plans shall require approval by the Planning Commission before units may be sold or site improvement initiated. In determining whether to approve a condominium land subdivision plan, the Planning Commission shall consult with the City Attorney, Planner and Engineer regarding the adequacy of the submission as it relates to the City of Harbor Springs Zoning Code and requirements of the Condominium Act. The review process shall consist of the following two steps:

(1) **Preliminary Plan Review.** In the preliminary review phase, the Planning Commission shall review the overall plan for the site including basic road and unit configurations and the consistency of the plans with all applicable provisions of the City of Harbor Springs Zoning Code. Plans submitted for preliminary review shall include information specified in items (1)-(3) of the Submission Requirements.

(2) **Final Plan Review.** Upon receipt of the Preliminary Plan Approval, the applicant shall prepare the appropriate engineering plans and apply for Final Review by the Planning Commission. Final plans shall include information as required by the submission Requirements. Such plans and information shall be reviewed by the City Attorney, Engineer and Planner.

Further, such plans shall be submitted for review and comment to all applicable County and State agencies. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.

52.1404 District Requirements. The development of all condominium land subdivisions shall observe the applicable yard, setback and minimum floor area requirements of the zoning district within which the project is located. The dwelling unit density of the project shall be no greater and spacing no less than would be permitted if the property were a platted subdivision.

52.1405 Design Standards. All development in a condominium land subdivision shall conform to the design and improvement standards of Article 7 Subdivision Design Standards, and Article 8 Subdivision Required Improvements and Financing of this Chapter 52. All streets and roads shall be dedicated to the public, or may be private at the discretion of the City Council. Street and road connections and/or stubs shall be required, where necessary, to provide continuity to the public road system.

52.1406 Utility Easements. The condominium land subdivision plan shall include all necessary easements granted to appropriate governmental authority for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including, but not limited to, the conveyance of sewage, water and stormwater run-off across, through and under the property subject to said easement.

52.1407 Final Acceptance. The City shall also require all the appropriate inspections. After construction of the condominium land subdivision, an as-built reproducible mylar of the complete site (minus buildings) is to be submitted to the City for review by the City Engineer. A final certificate of occupancy and any construction bonds or letter of credit will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the City.

ARTICLE 15
VIOLATIONS AND PENALTIES

52.1500 Penalty. Any person, persons, firm or corporation, or any one acting in behalf of said persons, firm or corporation, violating any of the provisions of this Chapter shall upon conviction thereof be subject to a fine of not more than five hundred (\$500.00) dollars and the cost of prosecution or in default of the payment thereof by imprisonment in the County Jail for a period not to exceed ninety (90) days, or both, such fine and imprisonment in the discretion of the Court. Each day that a violation is permitted to exist shall constitute a separate offense, and any continuing violation hereof may be enjoined by a court of competent jurisdiction.

Chapter 53**DOWNTOWN DISTRICT****ARTICLE 1****ADOPTION OF TAX INCREMENT
FINANCING AND DEVELOPMENT
PLANS FOR THE CITY OF HARBOR
SPRINGS, PURSUANT TO THE DOWN-
TOWN DEVELOPMENT AUTHORITY
ACT**

53.100 Determination of Public Purpose. The City Council determines that the amended Development Plan and the amended Tax Increment Financing Plan contained in the Development Plan and Tax Increment Financing Plan of the Harbor Springs Downtown Development Authority (hereinafter referred to as the "Authority"), both dated June 9, 1983, copies of which are available at the Office of the City Clerk, and which are hereby incorporated by reference as if fully set forth herein, both constitute a public purpose and that they are necessary to protect the health, safety, and welfare of the citizens of Harbor Springs by preventing the deterioration of property values in the area, increasing the tax base and tax revenues of taxing entities, and encouraging increased employment and stimulating economic activity by providing free automobile parking in the downtown district.

53.101 Adoption of Development Plan and Tax Increment Plan. The Development Plan and Tax Increment Financing Plan dated April 2, 1982 and approved by Ordinance No. 182 of the City Council of Harbor Springs on May 6, 1982, as amended and modified by the Development Plan and Tax Increment Financing Plan dated June 9, 1983, are hereby approved and reapproved by the City Council based on the following considerations, and subject to the condition set out in subsection (a) of this Section:

- (1) No Development Area Citizens Council is required under the terms of the Downtown Development Authority Act, Act 197, Public Acts of 1955 (hereinafter "the Act").
- (2) The terminology and language included in this Ordinance shall be defined in terms of and by reference to the Act.
- (3) The Development Plan meets the requirements of Section 17(2) of the Act.
- (4) The proposed method of financing the Development Plan is feasible and the Authority has the ability to arrange the financing.
- (5) The Development Plan is reasonable and necessary to carry out the purposes of the Act.
- (6) The land included within the Development Area to be acquired is reasonably necessary to carry out the purposes of the Development Plan and of the Act in an efficient and economically satisfactory manner.
- (7) The Development Plan is in reasonable accord with the Master Plan of the municipality.
- (8) Public services such as fire and police protection and utilities are adequate to serve the Development Area.
- (9) Changes in street levels, intersections and utilities are reasonably necessary for the project and municipality.
- (10) The entire Tax Increment generated during the first six years (years 1982 through 1987, inclusive) of the Tax Increment Financing Plan shall be transmitted entirely to the Authority; provided, however, that after the second year of the Tax Increment Financing Plan (i.e. after year 1983), no Tax Increment attributable to millage levied by the County of Emmet, a Michigan municipal corporation, shall be transmitted to the Authority without an agreement with said Emmet County authorizing

transmittal thereof. No Tax Increment generated during years subsequent to 1987 of the Tax Increment Financing Plan shall be paid to the Authority unless an agreement with a respective taxing unit for sharing the Tax Increment for a given year or years, is achieved.